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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/774,967
Filing Date: February 09, 2004
Appellant(s): MOLLET ET AL.

MAILED
JAN 09 2006
GROUP 3600

David G. Maire
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 9, 2005 appealing from the Office action mailed June 14, 2005.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,785,283	Ehrenberger et al	7-1998
6,480,810	Cardella et al	11-2002
5,954,299	Pace	7-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ehrenberger et al (US 5,785,283) in view of Cardella et al (US 6,480,810).

Ehrenberger et al discloses a system and method for a wayside track device to communicate with a locomotive. As shown in figure 2 the wayside device 100 uses a wireless transceiver 212 to communicate with a wireless transceiver 146 on a locomotive 103. A database in the form of an event recorder 21, the database is associated with a processor 140 that receives the information from the transceiver 146. The signal from the wayside device 100 contains a test signal and information regarding the operational status of the wayside device 100. The system is further comprised of an audible alarm 152 and a visual display 150.

Ehrenberger et al discloses a system and method for a wayside device to communicate with a locomotive. However, Ehrenberger et al does not disclose the feature of the locomotive then communicating the information to a remote location. Cardella discloses a locomotive 10 in two way satellite communication with a central communication center for the train system. It would have been obvious to one of

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ordinary skill in the art to have applied a communication link from a locomotive to a remote dispatch center, like that of Cardella, to a system like that of Ehrenberger et al so that operational status information about the wayside equipment along train routes may be communicated. This way the central communication center can keep track of inoperable wayside equipment and be able to send work crews out to perform repairs.

Ehrenberger et al discloses a system and method for a wayside device to communicate with a locomotive. However, Ehrenberger et al does not disclose that the wayside device is a detector to monitor such things as hot box detector, load detector or to detect if the train is dragging equipment. It is well known in the art that these types of detectors are used at the wayside of a track. It would have been an obvious design choice to apply the communication system to one of these types of detectors as well as block signaling equipment and grade crossing equipment.

Ehrenberger et al discloses a system and method for a wayside device to communicate with a locomotive. However, Ehrenberger et al does not disclose the use of a test signal to be sent between the communication links. It is well known in the art that various communication links send out test signals as a fail safe means for insuring that the link is operating correctly. It would have been an obvious design choice to include a test signal into the communications link in order to insure the proper operation of the device.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ehrenberger et al (US 5,785,283) in view of Cardella et al (US 6,480,810) further in view of Pace (US 5,954,299).

The combination of Ehrenberger et al and Cardella disclose a communication system and method for wayside devices. However, the combination does not disclose the wayside equipment being powered by solar power source. Pace discloses a grade crossing signal having a solar power source. It would have been obvious to one of ordinary skill in the art to have applied a solar power source, like that of Pace, to a wayside device like that of Ehrenberger et al in order to more efficiently operate the wayside device.

(10) Response to Argument

Applicant's arguments filed November 9, 2005 have been fully considered but they are no persuasive for the reasons set forth below.

The applicant argues that the prior art of Enrenberger et al, Cardella et al and Pace, does not show the features of the instant claims. Page 5 of the applicants brief shows specific claim limitations that the applicant feels are lacking in the cited prior art.

Applicant states that the prior art does not disclose the features of claim 6 which recite a sensor detecting an output of a human observable annunciator. Ehrenberger et al discloses an event data recorder for recording and logging all incoming and outgoing signals and events for analysis at a later date. The event recorder would sense an output of an annunciator.

Applicant states that the prior art does not disclose that the features of claims 11 and 22 which recite first communications link and second communications link comprise two way communications devices. Ehrenberger et al discloses a transceiver. A

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transceiver uses two way communication to both transmit and receive signals and information.

Applicant states that the prior art does not disclose the features of claims 14 and 24 which recite a polling signal generated from a location remote from the wayside location. Ehrenberger et al discloses a communication test signal 148 as described in column 2, lines 22-44 of the prior art specification. This signal is processed on the locomotive remote of a wayside track device.

Applicant states that the prior art does not disclose the features of claim 19, which states that the sensor is disposed on a railroad locomotive. As described above with the test signal and as shown in figure 2 the sensors are located in the cab of a railroad locomotive.

Applicant states that the prior art does not disclose the features of claim 25 which recites that the system process a signal at the wayside location to generate information and transmit the information to a data base remote from the wayside location. Figure 2 of Ehrenberger et al shows both the wayside equipment and the locomotive to have microprocessors for generating and processing information signals and transceivers for both transmitting and receiving signals. The microprocessor on the locomotive as well as the event recorder serve as a database for processing the signals remote from the wayside location.

Applicant states that the prior art does not disclose the features of claim 28 which recites that the system populates a failure database when the information is indicative of a failure of the equipment. Ehrenberger et al discloses an event recorder, as previously

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described, which records all of the incoming and outgoing signals and information. The event recorder will then record all information including any notes on the failure of the equipment for later analysis.

Applicant states that the prior art does not disclose the features of claim 29 which recites the system populates a report from the failure database. Ehrenberger et al discloses a display 150 for the train crew and operators. The information from the event recorder can be viewed on the display 150.

Applicant states that the prior art does not disclose the features of claim 30 which recites that information is transmitted from the locomotive to a location remote from the wayside via a communication link also used for transmitting information regarding an operating status of the locomotive to a data center. Enrenberger et al discloses transmitting information with transceivers, while Cardella et al discloses a process for the monitoring and tracking railroad locomotives. Cardella et al shows a locomotive transmitting and receiving information between the locomotive and a central processing center using a global positioning and satellite linking system. As stated in the office action it would have been obvious to one of ordinary skill in the art to have applied a communication link from a locomotive to a remote dispatch center, like that of Cardella et al, to a system like that of Ehrenberger et al so that operational status information about the wayside equipment along train routes may be communicated. This way the central communication center can keep track of inoperable wayside equipment and be able to send work crews out to perform repairs.

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Applicant states that the prior art does not disclose the features of claim 31 which recites that the system generates information responsive to signals operating between a wayside device and a locomotive at grade crossing location. The claim also recites that an annunciator transmits information from the grade crossing to the locomotive and then transmitting the information from the locomotive to a location remote from the grade crossing. As stated above the combination of Ehrenberger et al and Cardella et al show a locomotive and wayside equipment transmitting information and transmitting said information to a remote location from the wayside device. The prior art of Pace shows a solar powered wayside equipment for transmitting signals to and from a locomotive. The wayside device transmits signals regarding the grade crossing to the locomotive. It would be inherent that the signal would transmit until the train crew acknowledges the signal, and also that signals are transmitted between the wayside crossing device and the locomotive before the locomotive reaches the crossing, while the train is passing through the crossing and after it has passed the crossing so that the wayside crossing equipment knows the train has safely passed through the grade crossing.

(11) Related Proceeding(s) Appendix

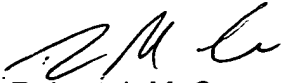
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

The evidence appendix and related proceedings appendices are not provided, as they contain no evidence or information on related proceedings. This record is clear as referenced in section 8 of the brief marked Appendices found on page 6 of the Appeal Brief.

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For the above reasons, it is believed that the rejections should be sustained.

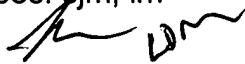
Respectfully submitted,



Robert J. McCarry Jr.
Examiner
Art Unit 3617

RJM
January 5, 2006

Conferees: sjm; lm



S. JOSEPH MORANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600